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PART II—Section 2

Bills and Reports of Select Committees on Bills

PARLIAMENT OF INDIA

The following Report of the Select Committee on the Bill to provide for the incorporation and regulation of Road Transport Corporations, was presented to Parliament on the 15th November, 1950:—

THE ROAD TRANSPORT CORPORATIONS BILL, 1949

REPORT OF THE SELECT COMMITTEE

We, the undersigned members of the Select Committee, to which the Bill to provide for the incorporation and regulation of Road Transport Corporations was referred, have considered the Bill and have now the honour to submit this our report, with the Bill as amended by us annexed thereto.

Clauses 1 and 2.—The amendments are purely formal to make these clauses conform to the Constitution.

Clause 3.—We think that the use of the expressions “as economically as possible” and “of preventing uneconomic competition” in part (c) may raise many complications. We have accordingly omitted such expressions and re-drafted this part.

Clause 5.—We consider that where shares are issued to other parties under sub-section (3) of section 22, there should be specific provision for representation of the shareholders in the Corporation through their elected representatives and such provision should be made in the rules under this Act. We have accordingly amended sub-clause (3) of clause 5.

Clause 8.—We have rearranged the parts of this clause and we think that when the State Government wants to remove a member nominated by the Central Government on the ground that he has failed or is unable to carry out his duties, he should not be removed except with the concurrence of the Central Government. We have accordingly inserted a proviso to part (d).

Clause 11.—We think that the meetings of a Corporation should be held at least once in every three months. We have, accordingly, modified sub-clause (1) by inserting a proviso thereto.

Clauses 13 and 14.—The chief executive head of a Corporation may be called either the Chief Executive Officer or the General Manager. These clauses have been modified accordingly.

Clause 16.—It might be necessary to appoint more than one Advisory Council and we have redrafted the clause so as to make it clear that the power to constitute an Advisory Council should vest in the State Government but the State Government shall before constituting any such Council, ascertain the views of the Corporation on such matter.

Clause 17.—In our opinion, the expression "subject to the provision of any law for the time being in force in a State" is unnecessary and we have omitted it.

Clause 18.—We consider that it is unnecessary to state that a Corporation shall exercise its powers subject to the provisions of any law for the time being in force in a State and we have omitted the relevant words in sub-clause (1).

We have added two new parts (k) and (l) to sub-clause (2) as we feel that the Corporation should be given such powers specifically.

We have added a new sub-clause (5) to provide that where a Corporation acquires the whole or any part of an undertaking, the Corporation should, in appointing its officers and servants, take into consideration the claims of employees employed in that undertaking.

Clause 20.—We think that the rates at which and the terms and conditions on which mails are to be carried by a Corporation should be specified by the Central Government in consultation with the State Government rather than by the State Government in consultation with the Central Government. Necessary changes have accordingly been made.

Clause 22.—In sub-clause (3), we have inserted a few words so as to leave no doubt that the displaced operators may also subscribe to the share capital of the Corporation.

Clause 25.—We consider that the whole of the net profits of a Corporation should not be utilised for the amenities of passengers using a road transport service or for the welfare of the labour employed in the Corporation. Only such percentage of the annual profits as may be specified in this behalf by the State Government should be utilised for such purposes and the balance should be made over to the State Government concerned for the purpose of road development. The clause has been modified accordingly.

Clause 30.—The changes suggested are merely consequential to the amendments made in clauses 17 and 18.

Clause 33.—We think that the State Government should give directions as to the recruitment of employees of the Corporation also and we have accordingly inserted the word "recruitment" in sub-clause (1).

Clause 35.—It is not necessary that the person to be appointed to make inquiries should be an officer of the Government. We have accordingly substituted the word "person" or "persons" for "officer" or "officers".

Clauses 36 and 37.—The changes made in these clauses are merely consequential and drafting changes.

Clause 38.—We have made some drafting amendments in this clause.

Clause 35.—We consider that the Chairman of an arbitral tribunal should be an independent person. We suggest that he should be appointed by the Chief Justice of a High Court.

We note that this clause does not specify the principles which should be taken into account in assessing compensation to be paid when an undertaking is acquired under this Act. Such principles have been laid down in section 47 of the U. K. Transport Act, 1947.

We, however, feel that the matter is of such importance that the Central Government should take necessary steps to lay down the principles of compensation either by rules under this Act or by separate legislation.

There may also be cases in which certain routes at present operated by private parties may be handed over to a Corporation by refusal to renew their permits. We feel that even in such cases, fair compensation is due to the displaced operators. We note that such a provision exists in the U. K. Transport Act, 1947. We recommend that the Government should take necessary steps to examine this question with a view to see that such cases are suitably dealt with and that no unfair use is made of the Motor Vehicles Act, 1939.

Clause 40.—We consider that any amendments which are to be made in the Motor Vehicles Act, 1939, should be made in that Act and not in this Bill, and we have accordingly omitted this clause.

New clauses 40, 41 and 42.—We suggest that the three new clauses may be inserted.

Clause 40 deals with powers of a Corporation to delegate its powers and duties to the Chief Executive Officer or General Manager. Such powers of the Corporation appear to be necessary.

Clause 41.—There are certain advantages in declaring a Corporation to be a local authority within the meaning of the Motor Vehicles Act.

We consider that the motor vehicles of a Corporation should be exempted from the operation of the provisions of Chapter VIII of the Motor Vehicles Act which deals with insurance of motor vehicles against third party risks. Before granting any such exemption, however, the State Government must be satisfied that the Corporation has established and maintained a fund to meet any liability which the Corporation may incur to third parties.

Clause 42.—It vests a Corporation with powers to authorise any of its officers and servants to enter upon any land or premises for carrying out the functions of the Corporation. We suggest that the Corporation may be vested with such powers.

Original *clauses 41 and 42* have been renumbered as *clauses 43 and 44* respectively.

Clause 44 (original clause 42).—The amendments made in this clause are merely consequential on the amendments suggested in the earlier clauses of the Bill. We also suggest that the rules should prescribe the number of members necessary to constitute a quorum in a meeting of the Corporation.

Original *clause 44* is to be renumbered as *clause 45*.

New clause 46.—This is a new clause which has been inserted to provide for penalty for breach of rules made under clause 44. We consider such powers necessary.

2. The Bill was published in Part V of the *Gazette of India*, dated the 31st December, 1949.

8. We think that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament and we recommend that it be passed as now amended.

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K. SANTHANAM
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*HUKAM SINGH
D. P. KARMARKAR

NEW DELHI;
The 15th November, 1950.

* Subject to a Minute of Dissent.

Minute of Dissent

When the State itself comes down into the field of 'competition with private persons it must compete with them on equal terms, and not claim preferential treatment'.

Clause 3.—Our country is very poor. Common man cannot spare much for his transport. Most of his income is exhausted in food and bare clothing. It is not only the efficiency that is needed in transport. It should also be economical as far as possible, and commensurate with his means.

The words "as economically as possible" and "of preventing uneconomic competition" in part (c) of clause 3 must have provided a wholesome check. These words have a history behind them and were added in the original act when it was under discussion on the 9th April, 1949. In my opinion they should be retained.

Clause 17.—There is no reason why these words should be omitted. The provisions contained in the Motor Vehicles Act were incorporated for the comfort and convenience of the user. Why should state transport be absolved from such responsibilities. The same applies to clause 18. The new sub-clause (5) is welcome indeed, but there is no guarantee that the employees would not be thrown out without any just cause.

Clause 22.—Sub-clause (3) has made the displaced operators eligible for shares when "the other parties" are invited to subscribe. But no preference has been given to these unlucky persons who, for no fault of theirs, would be deprived of their living. The policy of the Central Government declared earlier, to form Tripartite companies should have been adhered to.

Clause 39.—The Select Committee appreciated the hardship that could be caused by the State Government simply refusing to renew the permits and thus hitting the operators at the very root. Pious wishes have been expressed. But there is no sanction for these. The only effective remedy is to incorporate the relevant provisions of the U. K. Motor Vehicles Act.

HUKAM SINGH.

NEW DELHI;

The 15th November, 1950.

THE ROAD TRANSPORT CORPORATIONS BILL, 1949

[AS AMENDED BY THE SELECT COMMITTEE]

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A. BILL No. 82 OF 1949

A Bill to provide for the incorporation and regulation of Road Transport Corporation.

* * * * *

Be it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Road Transport Corporations Act, 1950.

(2) It extends to the whole of India except the States of Delhi and Jammu and Kashmir.

(3) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf for such State, and different dates may be appointed for different States.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(1) "ancillary service" means any subsidiary service which provides amenities or facilities to persons making use of any road transport service of a Corporation;

(2) "Corporation" means a Road Transport Corporation established under section 8;

(3) "extended area" means any area or route to which the operation of any road transport service of a Corporation has been extended in the manner provided in section 19;

(4) "prescribed" means prescribed by rules made under this Act;

(5) "road transport service" means a service carrying passengers or goods or both by road in vehicles for hire or reward;

(6) "vehicle" means any mechanically propelled vehicle, used or capable of being used for the purpose of road transport, and includes a tram-car, a trolley-vehicle and a trailer;

(7) words and expressions used but not defined in this Act and defined in the Motor Vehicles Act, 1939 (IV of 1939), have the meanings assigned to them in that Act.

(2) In the application of this Act to any Part B State, any reference to an enactment not in force in that State shall be construed as a reference to the corresponding law in force in that State.

CHAPTER II

ROAD TRANSPORT CORPORATIONS

3. Establishment of Road Transport Corporation in the State.—The State Government, having regard to—

- (a) the advantages offered to the public, trade and industry by the development of road transport;
- (b) the desirability of co-ordinating any form of road transport with any other form of transport;
- (c) the desirability of extending and improving the facilities for road transport in any area and of providing an efficient system of road transport service therein;

may, by notification in the Official Gazette, establish a Road Transport Corporation for the whole or any part of the State under such name as may be specified in the notification.

4. Incorporation.—Every Corporation shall be a body corporate by the name notified under section 3 having perpetual succession and a common seal, and shall by the said name sue and be sued.

5. Constitution of Road Transport Corporations.—(1) Subject to rules made under this Act, a Corporation shall consist of a Chairman and such number of other members as the State Government may think fit to appoint.

(2) The State Government may, if it so thinks fit, appoint one of the other members as the Vice-Chairman of the Corporation.

(3) Rules made under this Act shall provide for the representation both of the Central Government and of the State Government concerned in the Corporation in such proportion as may be agreed to by both the Governments and of nomination by each Government of its own representatives therein, and where the capital of a Corporation is raised by the issue of shares to other parties under sub-section (3) of section 22, provision shall also be made for the representation of such shareholders in the Corporation and the manner in which the representatives shall be elected by such shareholders.

(4) The term of office of, and the manner of filling casual vacancies among, members of the Corporation shall be such as may be prescribed.

6. Disqualifications for being chosen as, or for being, a member of a Corporation.—A person shall be disqualified for being chosen as, or for being, a member of a Corporation—

- (a) if he is found to be a lunatic or a person of unsound mind; or
 - (b) if he has been adjudged insolvent; or
 - (c) if he has been convicted of an offence involving moral turpitude;
- or
- (d) if he has, directly or indirectly, any interest in any subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company, provided that where he is a shareholder he shall disclose to the State Government the nature and extent of shares held by him in such company;
- or
- (e) if he has any financial interest in any other road transport undertaking.

7. Resignation of office by the Chairman or a member.—The Chairman or any other member of a Corporation may resign his office by giving notice in

writing to the State Government and, on such resignation being accepted by that Government, shall be deemed to have vacated his office.

8. Removal of Chairman and members from office.—The State Government may remove from office the Chairman or any other member of the Corporation who—

(a) is or becomes subject to any of the disqualifications mentioned in section 6; or

(b) is convicted of an offence involving moral turpitude; or

(c) without excuse sufficient in the opinion of the State Government, is absent * * from more than four consecutive meetings of the Corporation; or

(d) in the opinion of the State Government, has failed, or is unable, to carry out his duties so as to render his removal necessary:

Provided that no member nominated by the Central Government shall be removed from office without the concurrence of that Government.

9. Vacancies amongst members or defect in the constitution not to invalidate acts or proceedings of a Corporation.—No act or proceeding of a Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

10. Temporary association of persons with a Corporation for particular purposes.—(1) A Corporation may associate with itself for any particular purpose in such manner as may be determined by regulations made under this Act any person whose assistance or advice it may desire.

(2) A person associated with it by the Corporation under sub-section (1) for any purpose shall have a right to take part in the discussions of the Corporation relevant to that purpose, but shall not have a right to vote at a meeting of the Corporation, and shall not be a member for any other purpose.

11. Meetings of Corporations.—(1) A Corporation shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3) observe such rules of procedure in regard to transaction of business at its meetings as may be provided by regulations made under this Act:

Provided that the Corporation shall meet at least once in every three months.

(2) The person to preside at a meeting of a Corporation shall be the Chairman thereof, or in his absence from any meeting, the Vice-Chairman, if any, or in the absence of both the Chairman and the Vice-Chairman, such member as may be chosen by the members present from among themselves to preside.

(3) All questions at a meeting of a Corporation shall be decided by a majority of votes of the members present, and in the case of equality of votes, the Chairman or, in his absence, any other person presiding shall have a second or casting vote.

12. Authentication of orders and other instruments of a Corporation.—All orders and decisions of a Corporation shall be authenticated by the signature of the Chairman or any other member authorised by the Corporation in this behalf, and all other instruments issued by a Corporation shall be authenticated by the signature of the Chief Executive Officer or General Manager or any other officer of the Corporation authorised in like manner in this behalf.

13. Officers and servants of the Corporation.—(1) Every Corporation shall have a Chief Executive Officer or General Manager and a Chief Accounts Officer appointed by the State Government.

(2) A Corporation may appoint such other officers and servants as it considers necessary for the efficient performance of its functions.

(3) The conditions of appointment and service and the scales of pay of the officers and servants of a Corporation shall—

(a) as respects the Chief Executive Officer or General Manager and the Chief Accounts Officer be such as may be prescribed, and

(b) as respects the other officers and servants be such as may, subject to the provisions of section 33, be determined by regulations made under this Act.

14. The Chief Executive Officer or General Manager and the Chief Accounts Officer.—(1) The Chief Executive Officer or General Manager shall be the executive head of the Corporation and all other officers and servants of the Corporation shall be subordinate to him.

(2) The Chief Accounts Officer shall have the right to record his views on every proposal involving expenditure from the fund of the Corporation prior to the consideration of such proposal by the Corporation.

15. General disqualification of all officers and servants.—No person who has directly or indirectly, by himself or his partner or agent, any share or interest in any contract, by or on behalf of a Corporation, or in any other road transport undertaking shall become or remain an officer or servant of the Corporation.

16. Appointment of Advisory Council.—* * * The State Government may, after ascertaining the views of the Corporation, by notification in the Official Gazette, constitute one or more Advisory Councils consisting of such number of persons, on such terms, and for the purpose of advising the Corporation on such matters, as may be specified in that notification.

CHAPTER III

POWERS AND DUTIES OF CORPORATION

17. General duty of Corporation.—* * * It shall be the general duty of a Corporation so to exercise its powers as progressively to provide, or secure or promote the provision of, an efficient, adequate, economical and properly co-ordinated system of road transport services in the State or part of the State for which it is established and in any extended area:

Provided that nothing in this section shall be construed as imposing on a Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which it would not otherwise be subject.

18. Powers of Corporation.—(1) Subject to the provisions * * * of this Act, a Corporation shall have power—

(a) to operate road transport services in the State and in any extended area;

(b) to provide for any ancillary service;

(c) to provide for its employees suitable conditions of service including establishment of provident fund, living accommodation, places for rest and recreation and other amenities.

(2) Subject to the provisions of this Act, the powers conferred by sub-section (1) shall include power—

(a) to manufacture, purchase, maintain and repair rolling stock, vehicles, appliances, plant, equipment or any other thing required for the purpose of any of the activities of the Corporation referred to in sub-section (1).

Explanation.—In this clause, the expression “manufacture” does not include the construction of the complete unit of a motor vehicle except for purposes of experiment or research;

(b) to acquire and hold such property, both movable and immovable, as the Corporation may deem necessary for the purpose of any of the said activities, and to lease, sell or otherwise transfer any property held by it;

(c) to prepare schemes for the acquisition of, and to acquire, either by agreement or compulsorily in accordance with the law of acquisition for the time being in force in the State concerned and with such procedure as may be prescribed, whether absolutely or for any period, the whole or any part of any undertaking of any other person to the extent to which the activities thereof consist of the operation of road transport services in that State or in any extended area;

(d) to purchase by agreement or to take on lease or under any form of tenancy any land and to erect thereon such buildings as may be necessary for the purpose of carrying on its undertaking;

(e) to authorise the disposal of scrap vehicles, old tyres, used oils, or any other stores of scrap value;

(f) to enter into and perform all such contracts as may be necessary for the performance of its duties and the exercise of its powers under the Act;

(g) to purchase vehicles of such type as may be suitable for use in the road transport services operated by the Corporation.

(h) to purchase or otherwise secure by agreement vehicles, garages, sheds, office buildings, depots, land, workshops, equipment, tools, accessories to and spare parts for vehicles, or any other article owned or possessed by the owner of any other undertaking for use thereof by the Corporation for the purposes of its undertaking;

(i) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or of the manner in which that equipment is operated, including the provision by the Corporation, and the assistance by the Corporation to others for the provision of facilities for training, education and research;

(j) to enter into and carry out agreements with any person carrying on business as a carrier of passengers or goods providing for the carriage of passengers or goods on behalf of the Corporation by that other person at a through fare or freight;

(k) to provide facilities for the consignment, storage and delivery of goods;

(l) to enter into contracts for exhibition of posters and advertising boards on and in the vehicles and premises of the Corporation and also for advertisement on tickets and other forms issued by the Corporation to the public;

(m) with the prior approval of the State Government to do all other things to facilitate the proper carrying on of the business of the Corporation.

(3) Nothing in this section shall be construed as authorising a Corporation, except with the previous approval of the State Government—

(i) to manufacture or maintain anything which is not required directly or indirectly for use for the purpose of the undertaking of the Corporation or to repair, store, or provide any service for, any vehicle which does not

belong to the Corporation or is not used directly or indirectly for the purpose of its undertaking;

(ii) to purchase any vehicle for the purpose of sale to another person;

(iii) to sell or supply to any person lubricants, spare parts, or equipment for or accessories to, vehicles;

(iv) to let vehicles on hire for the carriage of passengers or goods except as expressly provided by or under this Act.

(4) Except as otherwise provided by this Act nothing in the foregoing provisions shall be construed as authorising the Corporation to disregard any law for the time being in force.

(5) Where a Corporation acquires the whole or any part of an undertaking of any other person, the Corporation shall, in appointing its officers and servants, take into consideration the claims of employees employed in that undertaking.

(6) The provisions of this section shall not be construed as limiting any power of a Corporation conferred by or under any subsequent provision of this Act.

19. Extension of the operation of the road transport service of a Corporation to areas within another * * State.—(1) If a Corporation considers it to be expedient in the public interest to extend the operation of any of its road transport services to any route or area situated within another State, it may, with the permission of the State Government, negotiate with the Government of the other State regarding the proposed extension.

(2) If the Government of the other State approves the proposed extension, the Corporation shall prepare a scheme for the purpose and forward the same to the other Government for its consent, and after such consent has been received, the Corporation may, with the previous approval of the State Government, sanction the scheme.

(3) After the scheme has been so sanctioned, it shall be competent for the Corporation to extend the operation of its road transport service to such route or area and when the operation of such service is so extended, the Corporation shall operate the service on that route or in that area subject to the provisions of any law in force in the other State within which such route or area is situated.

(4) The Corporation may, from time to time, alter or extend the scheme sanctioned under sub-section (2) by a supplementary scheme prepared and sanctioned in the manner provided in the foregoing provisions of this section.

20. Carriage of mails.—Notwithstanding anything contained in the Motor Vehicles Act, 1939 (IV of 1939), a Corporation shall, if so required by the Central Government, carry mails at such rates and on such terms and conditions as may be specified in this behalf by the Central Government in consultation with the State Government.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

21. General principle of Corporation's finance.—It shall be the general principle of a Corporation that in carrying on its undertaking it shall act on business principles.

22. Capital of the Corporation.—(1) The Central Government and the State Government may provide to a Corporation established by the State Government, in such proportion as may be agreed to by both the Governments,

any capital that may be required by the Corporation for the purpose of carrying on the undertaking or for purposes connected therewith on such terms and conditions, not inconsistent with the provisions of this Act, as the State Government may, with the previous approval of the Central Government, determine.

(2) Where the capital of a Corporation is not provided under sub-section (1), the Corporation may raise, by the issue of shares, such capital as may be authorised in this behalf by the State Government.

(3) The authorised capital of the Corporation shall be divided into such number of shares as the State Government may determine; and the number of shares which shall be subscribed by the State Government, the Central Government and other parties (including persons whose undertakings have been acquired by the Corporation) shall also be determined by the State Government in consultation with the Central Government.

(4) The allotment of shares to other parties mentioned in sub-section (3) shall be made by the Corporation in such manner as may be prescribed.

(5) The shares of the Corporation shall not be transferable except in accordance with the rules made under this Act.

(6) The Corporation may at any time, with the previous approval of the State Government, redeem the shares issued to the other parties under sub-section (4) in such manner as may be prescribed.

23. Additional capital of the Corporation.—If, after the issue of shares under section 22, a Corporation requires any further capital, the Corporation may, with the previous sanction of the State Government, raise such additional capital by the issue of new shares and the provisions of sub-sections (2), (3), (4), (5) and (6) of the said section shall apply to the issue of such shares.

24. Guarantee by the State Government.—The shares of a Corporation shall be guaranteed by the State Government as to the payment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the State Government by notification published in the Official Gazette at the time of issuing the shares.

25. Borrowing powers.—A Corporation may, with the previous approval of the State Government, borrow money in the open market or otherwise for the purpose of raising its working capital.

26. Fund of the Corporation.—(1) Every Corporation shall have its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) Except as otherwise directed by the State Government, all moneys belonging to that fund shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India, or invested in such securities as may be approved by the State Government.

27. Payment of interest and dividend.—(1) Where the capital of a Corporation is provided by the Central Government and the State Government under sub-section (1) of section 22, the Corporation shall pay interest on such capital at such rate as may, from time to time, be fixed by the State Government in consultation with the Central Government and such interest shall be deemed to be a part of the expenditure of the Corporation.

(2) Where the Corporation raises its capital by issue of shares, it shall pay dividend on such shares at such rate as may, from time to time, be fixed by the Corporation, subject to any general limitations which may have been imposed by the State Government in consultation with the Central Government, and such dividend shall be deemed to be a part of the expenditure of the Corporation.

28. Provision for depreciation and reserve and other funds.—(1) A Corporation shall make such provisions for depreciation and for reserve and other funds as the State Government may, from time to time, direct.

(2) The management of the said funds, the sums to be carried from time to time to the credit thereof and the application of the moneys comprised therein shall be determined by the Corporation:

Provided that no fund shall be utilised for any purpose other than that for which it was created without the previous approval of the State Government.

29. Disposal of net profits.—After making provision for payment of interest and dividend under section 27 and for depreciation, reserve and other funds under section 28, a Corporation may utilise such percentage of its net annual profits as may be specified in this behalf by the State Government for the provision of amenities to the passengers using the road transport services, welfare of labour employed by the Corporation * * and for such other purposes as may be prescribed with the previous approval of the Central Government, and the balance shall be made over to the State Government for the purpose of road development.

30. Power of the Corporation to spend.—A Corporation shall have power to spend such sums as it thinks fit on objects authorised under this Act * * and such sums shall be treated as * expenditure payable out of the fund of the Corporation.

31. Budget.—(1) Every Corporation shall, by such date in each year as may be prescribed, prepare and submit to the State Government for approval a budget for the next financial year showing the estimated receipts and expenditure during that financial year in such form as may be prescribed.

(2) Subject to the provisions of sub-sections (3) and (4), no sum shall be expended by or on behalf of a Corporation unless the expenditure of the same is covered by a current budget grant approved by the State Government.

(3) A Corporation may sanction any re-appropriation within the grant from one head of the expenditure to another or from a provision made for one scheme to that in respect of another, subject to the condition that the aggregate budget grant is not exceeded.

(4) A Corporation may, within such limits and subject to such conditions as may be prescribed, incur expenditure in excess of the limit provided in the budget approved by the State Government under any head of expenditure or in connection with any particular scheme.

32. Accounts and audit.—(1) Every Corporation shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.

(2) The accounts of a Corporation shall be audited by the auditor appointed by the State Government at such times and in such manner as may be prescribed.

(3) As soon as the accounts of a Corporation have been audited, the Corporation shall send a copy thereof together with a copy of the report of the auditor thereon to the Central Government and the State Government.

CHAPTER V

MISCELLANEOUS

33. Directions by the State Government.—(1) The State Government may, after consultation with a Corporation established by such Government, give to the Corporation general instructions to be followed by the Corporation, and such instructions may include directions relating to the recruitment, conditions of service and training of its employees, wages to be paid to the employees, reserves to be maintained by it and disposal of its profits or stocks.

(2) In the exercise of its powers and performance of its duties under this Act, the Corporation shall not depart from any general instructions issued under sub-section (1) except with the previous permission of the State Government.

34. Returns and reports.—(1) Every Corporation shall furnish to the State Government such returns, statistics, accounts and other information with respect to its property or activities or in regard to any proposed scheme as the State Government may from time to time require.

(2) Without prejudice to the provisions of sub-section (1), a Corporation shall, as soon as possible after the end of each financial year, submit to the Central and the State Governments a report on the exercise and performance by it of its powers and duties under this Act * * during that year and on its policy and programme.

35. Power to order inquiries.—(1) The State Government, with a view to satisfy itself that the powers and duties of a Corporation established by that Government are being exercised and performed properly, may, at any time, with the previous approval of the Central Government, appoint any person or persons to make inquiries into all or any of the activities of the Corporation and to report to the State Government the result of such inquiries.

(2) The Corporation shall give to the person or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before, or furnish to, the person or persons any document, account or information in the possession of the Corporation which such person or persons demand for the purposes of the inquiries.

36. Power to control a part of the undertaking of a Corporation.—(1) If on receipt of the report of any inquiry held under section 35 or otherwise, the State Government is satisfied that it is necessary so to do in the public interest, the State Government may, with the previous approval of the Central Government, by notification in the Official Gazette, authorise any person to take over from the Corporation, * * and so long as that notification is in force, to administer in accordance with such directions as may be issued from time to time by the State Government such part of the undertaking of the Corporation as may be specified in the notification, and any person so authorised may, for the purpose of so administering the said part of the undertaking, exercise all or any of the powers of the Corporation or of any officer of the Corporation under this Act, * * issue such directions as he thinks fit to the officers or servants of the Corporation and employ any outside agency.

(2) The State Government may by such notification direct that all charges and expenses incurred by the person so authorised together with such remuneration as the State Government may allow from time to time to

such person shall be paid within such time as may be fixed by the State Government from the fund of the Corporation, and if the expenses are not so paid, the State Government may make an order directing the persons having the custody of that fund to pay to the person so authorised such expenses in priority to any other charges against such fund and he shall, so far as the funds to the credit of the Corporation admit, comply with the order of the State Government.

37. Power to supersede a Corporation.—(1) If the State Government is of opinion that a Corporation established by that Government is unable to perform, or has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act, * * or has exceeded or abused its powers, the State Government may, with the previous approval of the Central Government, by notification in the Official Gazette, supersede the Corporation for such period as may be specified in the notification:

Provided that before issuing a notification under this sub-section the State Government shall give a reasonable time to the Corporation to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation.

(2) Upon the publication of a notification under sub-section (1) superseding a Corporation—* * *.

(a) all the members of the Corporation shall, as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Corporation shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct;

(c) all property vested in the Corporation shall, during the period of supersession, vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government may—

(a) extend the period of supersession for such further term as it may consider necessary; or

(b) reconstitute the Corporation in the manner provided in section 5.
* * *

38. Liquidation of a Corporation.—(1) No provision of any law relating to the winding up of companies or corporations shall apply to a Corporation, and no Corporation shall * be placed in liquidation save by order of the State Government concerned and save in such manner as may be directed by that Government:

Provided that no such order shall be made by any State Government except with the previous approval of the Central Government.

(2) In the event of a Corporation being placed in liquidation, the assets of the Corporation, after meeting the liabilities, if any, shall be divided among the Central and the State Government and such other parties, if any, as may have subscribed to the capital in proportion to the contribution made by each of them to the total capital of the Corporation.

39. Compensation for acquisition of road transport undertakings.—Wherever a Corporation acquires under this Act the whole or any part of any undertaking, there shall be paid by the Corporation compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the amount shall, subject to rules made under this Act, be determined by an arbitral tribunal consisting of one nominee of the Corporation, one nominee of the person to be compensated, and a Chairman to be nominated by the Chief Justice of the High Court exercising jurisdiction in relation to the State concerned;

(c) an appeal shall lie to the district judge against the decision of the tribunal and the order of the district judge on such appeal shall be final.

40. Delegation of power and duties to the Chief Executive Officer or General Manager.—A Corporation may, by general or special order in writing delegate to the Chief Executive Officer or General Manager, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary for the efficient running of the day-to-day administration of its undertaking.

41. Corporation to be deemed to be a local authority and provision as to third party risks.—(1) A Corporation shall be deemed to be a local authority within the meaning of the Motor Vehicles Act, 1939 (IV of 1939).

(2) The State Government may, by notification in the Official Gazette, exempt the motor vehicles of a Corporation from the operation of the provisions of Chapter VIII of the Motor Vehicles Act, 1939:

Provided that no such notification shall be issued unless a fund has been established and is maintained by the Corporation in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of the Corporation which the Corporation or any person in the employment of the Corporation may incur to third parties.

42. Power of entry.—Whenever it is necessary for a Corporation to carry out any of its works or to make any survey, examination or investigation, preliminary or incidental to the exercise of powers or the performance of duties by the Corporation under this Act, any officer or servant of the Corporation generally or specially empowered by the Corporation may, with the previous permission of the district magistrate, enter upon any land or premises between sunrise and sunset, after giving reasonable notice of the intention to make such entry to the owner or occupier of such land or premises, and at any other time, with the consent in writing of the owner or occupier of such land or premises, for the purpose of the carrying out of such works or the making of such survey, examination or investigation.

43. Members, officers and servants of a Corporation to be public servants.—All members of a Corporation, and all officers and servants of a Corporation, whether appointed by the State Government or the Corporation, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or of any other law, to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

44. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the conditions and manner of appointment of members of a Corporation, the representation in the Corporation of the Central and the State Government, and where shares are issued to other parties under sub-section (3) of section 22, of such shareholders, and generally all matters relating to the constitution of the Corporation;

(b) allowances or fees to be paid to the members of the Corporation or other persons associated with the Corporation under section 10;

(c) the term of office of, the manner of filling casual vacancies among, members of the Corporation;

(d) the number of members necessary to constitute a quorum at a meeting of the Corporation;

(e) the conditions of appointment and service and the scales of pay of the Chief Executive Officer or General Manager and the Chief Accounts Officer of the Corporation;

(f) the number and term of office of, the allowances to be paid to, the procedure to be followed by, and the manner of filling casual vacancies among, members of an Advisory Council;

(g) the procedure for compulsory acquisition by the Corporation of the whole or any part of the undertaking;

(h) the payment of due compensation to owners of road transport services the operation of which is acquired by the Corporation;

(i) the manner in which the shares of the Corporation shall be allotted, transferred or redeemed;

(j) the manner in which the net profits of the Corporation shall be utilised;

(k) the date by which, and the form in which, the budget shall be prepared and submitted in each year under sub-section (1) of section 81;

(l) the forms and the manner in which the accounts of the Corporation shall be maintained;

(m) the time at which, and the manner in which, the accounts of the Corporation shall be audited;

(n) the form in which the returns, statistics or reports shall be submitted under section 84;

(o) the procedure to be followed in determination of compensation by an arbitral tribunal under section 89;

(p) any other matter which has to be, or may be, prescribed.

45. Power to make regulations.—A Corporation may, with the previous sanction of the State Government, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the manner in which, and the purposes for which, persons may be associated with the Corporation under section 10;

(b) the time and place of meetings of the Corporation and the procedure to be followed in regard to transaction of business at such meetings;

(c) the conditions of appointment and service and the scales of pay of officers and servants of the Corporation other than the Chief Executive Officer or General Manager and the Chief Accounts Officer.

46. Penalty for breach of rules.—The State Government may, by rule, provide that the breach of any rules made by it under section 44 shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing one, with a further fine not exceeding twenty rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

47. Repeal of Act XXXII of 1948.—The Road Transport Corporation Act, 1948 (XXXII of 1948) is hereby repealed.

M. N. KAUL,
Secretary.

The following Bills were introduced in Parliament on the 15th November, 1950:—

BILL No. 81 OF 1950

a bill to repeal the Public Companies (Limitation of Dividends) Regulation, 1958F of Hyderabad.

Be it enacted by Parliament as follows:—

1. Short title and commencement.—(1) This Act may be called the Hyderabad Public Companies (Limitation of Dividends) Repealing Act, 1950.

(2) It shall be deemed to have come into force on the 1st day of April, 1950.

2. Repeal of the Public Companies (Limitation of Dividends) Regulation of Hyderabad.—The Public Companies (Limitation of Dividends) Regulation, 1958F, made by the Military Governor of Hyderabad on the 11th day of January, 1949, is hereby repealed:

Provided that section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to such repeal as if the said Regulation were an enactment.

STATEMENT OF OBJECTS AND REASONS

The Hyderabad Government promulgated on the 11th January 1949 the Public Companies (Limitation of Dividends) Regulation, 1958F corresponding to the Public Companies (Limitation of Dividends) Ordinance, 1948 (No. XXIX of 1948), issued by the Government of India. That Ordinance was later replaced by a Central Act (No. XXX of 1949), which lapsed on the 31st March 1950. The Hyderabad Regulation is, however, still in force under the provisions of clause (1) of article 372 of the Constitution. The Hyderabad Government have requested that the Regulation should be repealed retrospectively with effect from the 1st April 1950.

As the Regulation is exclusively relatable to a matter enumerated in List I of the Seventh Schedule to the Constitution, Parliamentary legislation is necessary. The Bill provides for the repeal of the Hyderabad Public Companies (Limitation of Dividends) Regulation, 1938F.

V. J. PATEL,

NEW DELHI;
The 29th October, 1950.

BILL No. 82 OF 1950

a bill further to amend the Employers' Liability Act, 1938.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Employers' Liability (Amendment) Act, 1950.

2. Amendment of section 3, Act XXIV of 1938.—For clause (d) of section 3 of the Employers' Liability Act, 1938, the following clause shall be substituted, namely:—

“(d) by reason of the act or omission of any person in the service of the employer done or made—

(i) in the normal performance of the duties of that person; or

(ii) in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be approved by any authority and which has been so approved); or

(iii) in obedience to particular instructions given by any other person to whom the employer has delegated authority in that behalf;”.

STATEMENT OF OBJECTS AND REASONS

In suits for compensation for injuries sustained by workmen, it was open to the employer to plead the doctrines of “common employment” and “assumed risk”. By the defence of “common employment”, the employer could plead that he was not liable to pay damages to a workman for injuries resulting from the default of a fellow workman. By the defence of “assumed risk”, he could plead that the workman was presumed to have accepted the risk if it was such that he ought to have known it as part of the risks of his occupation. The Royal Commission on Labour in India regarded both these doctrines as inequitable and accordingly, on their recommendation, the Employers' Liability Act, 1938, was enacted debarring employers from putting forward these pleas. It was hitherto assumed that the defence of “common employment” was barred under section 3 (d) of the Act. But, in a recent case, the Privy Council has held that the scope of section 3 (d) is still limited and that the defence of “common employment” is still available to the employer. The decision of the Privy Council is due mainly to ambiguity in the language of clause (d). The Bill seeks to remove that defect.

JAGJIVAN RAM,

NEW DELHI;
The 27th October, 1950.

M. N. KAUL,
Secretary.